IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(***Special Original Jurisdiction***)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 9391 of 2005

Between:

M/s.Balasore Alloys Ltd., Balgopalpur, Balasore, Orissa State,
rep.by its Authorised Signatory-R.Kameswara Rao.

..... PETITIONER

A N D

1 The Commissioner of Proh & Excise, Andhra Pradesh, Hyderabad.
2 The Proh & Excise, Superintendent, Visakhapatnam, Visakhapatnam

Dist.
3 The Chodavaram Coop. Sugars Ltd., Govada, Chodavaram, Visakhapatnam
Dist.

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, preferably one in the nature of writ of Mandamus, declaring that the respondents have no jurisdiction to cause any restriction on the transport of Molassess by the petitioner from Andhra Pradesh State to any other place in the other states in India as such restriction is illegal and without jurisdiction apart from being violative of Article 19(1)(g) of the Constitution of India and pass such other or further orders as are necessary.

Counsel for the Petitioner: MR.E.MARUTHI RAJA

Counsel for the Respondents 1 and 2: GP FOR PROHIBITION & EXCISE

The Court made the following at the admission stage (order follows 2nd page)

O R D E R

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When the writ petition is listed today under the caption 'for admission' the learned counsel for the petitioner submitted that in similar circumstances, the Division Bench of this court allowed WP.No.8136 of 2004.

On verification of the above submission of the learned counsel for the petitioner, it appears that WP.No.8136 of 2004 was allowed by learned Judge of this court, Sri Justice S.Ananda Reddy on 28-4-2004 but not by the division bench.

While making the submission, the learned counsel for the petitioner is not aware but he has wrongly represented that WP.No.8136 of 2004 was allowed by Division Bench.

Actually, the subject matter of this writ petition relates to judgment of the Division Bench of this Court, comprising of Sri Justice B.Subhashan Reddy and Sri Justice G.Bikshapathy, passed judgment dated 08-5-2001 in WA.No.2209 of 1998 and batch, wherein it was held :

> *"In view of what is stated above, while we uphold the argument that the State is not debarred from making any legislation with regard to the molasses, we hold that since no such legislation has been passed by the State of A.P., regarding the subject of molasses, the impugned orders of the respondents are unconstitutional, illegal and nonest.*
>
> *Accordingly, the Writ Appeals are dismissed and the Writ Petitions*

are allowed.

It appears that the factual matrix of the present case being identical to the factual matrix in the above case before the Division Bench of this Court in WA.No.2209 of 1998 and batch, dated 08-5-2001, the principles and ratio laid down therein, are equally applicable to the facts of this case.

Recording the submission made by the learned counsel for the petitioner and following the ratio laid down by the Division Bench of this Court in WA.No.2209 of 1998 and batch, the writ petition is accordingly allowed. Office is directed to annex a copy of the judgment in WA.No.2209 of 1998 and batch, dated 08-5-2001 to this order. No costs.

APRIL 26th, 2005. ----------

I S L ELIPE DHARMA RAO, J

To

1. The Commissioner of Proh & Excise, Andhra Pradesh, Hyderabad.
2. The Proh & Excise, Superintendent, Visakhapatnam, Visakhapatnam Dist.
3. The Chodavaram Coop. Sugars Ltd., Govada, Chodavaram, Visakhapatnam Dist.

4. 1 C.C. to the Govt.Pleader for Prohibition & Excise, High Court Buildings, High Court of A.P. Hyderabad.

5. 1 C.C. to Mr.E.Marutiraja, counsel for the petitioner, Advocates'

Association, High Court Buildings, High Court of AP Hyderabad.

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